

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-11340 DPW

STEPHEN KEEFE, *
Plaintiff *
 *
v. *
 *
LOCAL 805, INTERNATIONAL *
LONGSHOREMEN'S ASSOCIATION, AFL-CIO, *
LOCAL 800, INTERNATIONAL *
LONGSHOREMEN'S ASSOCIATION, AFL-CIO, *
and LOCAL 799, INTERNATIONAL *
LONGSHOREMEN'S ASSOCIATION, AFL-CIO, *
Defendants *

PLAINTIFF'S MOTION FOR SANCTIONS ALONG WITH CERTIFICATION

Pursuant to Rule 37(d) of the Rules of Civil Procedure plaintiff Stephen Keefe hereby moves this Court to enter judgment by default against Defendants or for an order of other appropriate sanctions due to Defendants' failure/refusal to attend their own depositions. In support of this Motion plaintiff states as follows:

1. This is an action for violation of the Union Members Bill of Rights (29 U.S.C. §§411 & 529) Plaintiff Stephen Keefe has alleged that in early 2003, the Defendants' Rules Committee retaliated against Keefe by suspending him for six months and putting him back in Gang 12 for supposedly having another job. (Compl. ¶ 33) The Rules Committee did this even though members of the Rules Committee themselves, including the current Chairman of the Rules Committee and his relatives, have other jobs and incomes (such as family business, rental income, pensions and cash paying jobs) while

still enjoying the benefits of Gangs 1-9. (Compl. ¶ 36)

2. On August 15, 2005, plaintiff served four Notices of Taking Deposition upon counsel for Defendants. These depositions were all scheduled for Friday, September 16, 2005. These depositions were for various Members of the Rules Committee, namely, Joseph Picard, Paul McGaffigan, William Sullivan and Brendan Lee, all of whom as such are officers or agents for one or more of the Defendants. These Notices of Deposition requested that the Deponents bring with them various documents that would show whether they maintained other jobs or incomes during the relevant time frame. (Exs. 1, 2, 3 and 4 attached hereto)
3. Current counsel of record for the Defendants is John F. McMahon, Esq. Prior to the scheduled date for the above depositions, Atty. McMahon advised the undersigned by telephone that the Defendants would be filing a Motion for a Protective Order against these depositions.
4. In has been four weeks since these four depositions were supposed to have taken place, and Defendants still have not filed any Motion for a Protective Order.
5. Plaintiff hereby certifies that he has attempted to confer with the Defendants either to get them to file a Motion for a Protective Order or to attend their depositions, but he has been unsuccessful in these efforts.

WHEREFORE this Court should enter a judgment by default against Defendants.

LOCAL RULE 7.1(A)(2) CERTIFICATE

I, Scott A. Lathrop, hereby certify that I have attempted to confer with opposing counsel in good faith to resolve or narrow the issues presented in this motion

Stephen Keefe
By his attorney



Scott A. Lathrop, Esq.
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Dated: October 14, 2005

Certificate of Service

I, Scott A. Lathrop, hereby certify that I have served the foregoing Motion on the defendants by mailing this day a copy to the last known address of their Attorney of Record.



Scott A. Lathrop

Dated: October 14, 2005